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Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No. _____

Telephone Number:

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Date:
December 11, 2012

Entity:

Parent:

Subsidiary:

State:

Jurisdiction:

Agreement 1:

Agreement 2:

Date 1:

Date 2:

Dear _____ :

This letter responds to a letter from your authorized representative signed August 31, 2012, in addition to supplemental information, submitted on behalf of Entity, Parent,

and Subsidiary (the Taxpayers), requesting rulings that Subsidiary's income will be excluded from gross income under § 115 of the Internal Revenue Code. The Taxpayers represent the facts as follows.

FACTS

Entity was created and is operated under State law as an agency of State. Its purpose is to provide professional investment management of various trusts and operating funds established under the laws of State. Entity has broad authority to invest and reinvest, to collect income and rents, to acquire, manage, and sell real estate, and to employ outside counsel and contractors.

Entity formed Parent on Date 1 as a limited liability company under the laws of Jurisdiction. Entity is the sole member of Parent. Agreement 1 provides that no person other than a state, a political subdivision of a state, or an entity whose income is excluded from gross income under § 115 may be admitted as a member of Parent.

Entity is the initial manager of Parent, with full and exclusive authority to handle Parent's business affairs, in accordance with Agreement 1. The manager may delegate any of its authority to another person, as long as the manager retains the power to direct and control the delegate. Entity may select any legal entity to serve as a successor manager under an advisory agreement to be reached between the successor and Parent. Entity may remove a successor manager at any time, with or without cause.

Parent's purpose, as stated in Agreement 1, is to acquire, hold, and sell investments, and to engage in any lawful activity. Entity intends for Parent to serve as an acquisition vehicle for its real estate investments. Parent will enter into a loan facility with a third-party lender, allowing it to draw on funds to acquire real estate investments. Parent will hold each investment in a separate, wholly-owned subsidiary, and will pledge its interests in these subsidiaries as security for the loan facility. The manager or an agent engaged by the manager will negotiate the loan facility and will identify, negotiate, and purchase real estate investments.

As the sole member of Parent, Entity will be allocated all Parent profits and losses and will receive all distributions from Parent. Upon Parent dissolution, and after the satisfaction of its legal obligations, all of Parent's remaining assets will be distributed to Entity. Entity will bear all risk of loss from Parent, limited to the amount of its capital contributions.

Parent formed Subsidiary on Date 2 as a limited liability company under the laws of Jurisdiction. Parent is the sole member of Subsidiary. Agreement 2 provides that no person other than a state, a political subdivision of a state, or an entity whose income is excluded from gross income under § 115 may be admitted as a member of Subsidiary.

Entity is the initial manager of Subsidiary, with full and exclusive authority to handle Subsidiary's business affairs, in accordance with Agreement 2. The manager may delegate any of its authority to another person, as long as the manager retains the power to direct and control the delegate. Parent may select any legal entity to serve as a successor manager under an advisory agreement to be reached between the successor and Subsidiary. Parent may remove a successor manager at any time, with or without cause.

According to Agreement 2, Subsidiary's purpose is to acquire, hold, and sell investments, and to engage in any lawful activity. It will hold a single real estate investment that it will acquire on behalf of Parent.

As the sole member of Subsidiary, Parent will be allocated all Subsidiary profits and losses and will receive all distributions from Subsidiary. Upon dissolution of Subsidiary, and after the satisfaction of its legal obligations, all of Subsidiary's remaining assets will be distributed to Parent.

LAW AND ANALYSIS

Section 115(1) provides that gross income does not include income derived from any public utility or the exercise of any essential government function and accruing to a state or any political subdivision thereof.

In Rev. Rul. 77-261, 1977-2 C.B. 45, income from an investment fund, established under a written declaration of trust by a state, for the temporary investment of cash balances of the state and its participating political subdivisions, was excludable from gross income for federal income tax purposes under § 115(1). The ruling indicated that the statutory exclusion was intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of a corporation or other entity engaged in the operation of a public utility or the performance of some governmental function that accrued to either a state or municipality. The ruling points out that it may be assumed that Congress did not desire in any way to restrict a state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and which are within the ambit of a sovereign properly to conduct. In addition, pursuant to § 6012(a)(2) and the underlying regulations, the investment fund, being classified as a corporation that is subject to taxation under subtitle A of the Code, was required to file a federal income tax return each year.

In Rev. Rul. 90-74, 1990-2 C.B. 34, the income of an organization formed, funded, and operated by political subdivisions to pool various risks arising from their obligations regarding public liability, workers' compensation, or employees' health is excludable from gross income under § 115. In this ruling, private interests did not

materially participate in the organization, nor did they benefit more than incidentally from the organization.

In a letter issued to Parent this date, we have ruled that Parent's income is excludable from gross income under § 115(1).

Subsidiary enables Entity, through Parent, to invest a portion of the trusts, operating funds, capital funds, and property of State and to engage in certain investment strategies, while limiting Entity's exposure to the risks of such investments. Providing such means for investing public assets and for limiting investment risk constitutes the performance of essential governmental functions. See Rev. Rul. 90-74 and Rev. Rul. 77-261.

All of Subsidiary's income accrues through Parent to Entity, an agency of State. Entity, through Parent, is allocated all of Subsidiary's profits and losses and receives all of Subsidiary's distributions. No private interests participate in, or benefit from, the operation of Parent other than as providers of goods or services. The benefit to third-party lenders or to buyers and sellers in the real estate market is incidental to the public benefit. Upon Subsidiary's dissolution, no assets remaining after winding up will be distributed to any entity other than a state, a subdivision of a state, or an entity the income of which is excluded from gross income under § 115. See Rev. Rul. 90-74.

RULING

Based solely on the facts and representations submitted by the Taxpayers, we conclude that the income of Subsidiary is derived from the exercise of an essential governmental function and will accrue to a state or a political subdivision thereof for purposes of § 115(1). Consequently, we rule that Subsidiary's income is excludable from gross income under § 115(1).

Except for the specific rulings above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the Code.

Under a power of attorney on file with this office, we are sending copies of this letter to your authorized representatives.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

Sincerely,

SYLVIA HUNT
Assistant Chief
Exempt Organizations Branch
Office of Division Counsel /
Associate Chief Counsel
(Tax Exempt & Government Entities)

enclosures: copy for § 6110 purposes